

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-12297-RWZ

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SCOTT M. EPSTEIN

v.

C.R. BARD, INC., FUTUREMED INTERVENTIONAL, INC.,  
and CROSSBOW VENTURES, INC.

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**PLAINTIFF SCOTT M. EPSTEIN'S MOTION FOR AN EXTENSION OF TIME TO  
RESPOND TO BARD'S MOTION FOR JUDGMENT ON THE PLEADINGS**

Plaintiff Scott M. Epstein ("Epstein") hereby moves for entry of an order extending the time to respond to C.R. BARD, INC.'s ("BARD") Motion for Judgment on the Pleadings that was received by Epstein on August 27, 2004. According to LR, D. Mass. 7.1(b)(2) (2001), the deadline for the filing of Epstein's Opposition is currently set for September 10, 2004. Epstein respectfully requests an extension until such time Epstein's Motion for Stay, if Granted, is lifted. In the event that Epstein's Motion for Stay is not granted, Epstein respectfully requests an extension "for a reasonable time to permit another member<sup>1</sup> of Lambert & Associates to get up to speed on this case." See BARD's Partial Opposition to Plaintiff's Motion for Stay p.1.

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<sup>1</sup> But See Plaintiff Scott M. Epstein's Reply to Bard's Opposition to Plaintiff's Motion for Stay, para. 3 (filed September 8, 2004).

The grounds for this motion are as follows:

1. On August 11, 2004, BARD assented to Plaintiff's Motion for Stay.
2. On August 18, 2004, a Scheduling Conference was held where this Court ordered the parties to file any appropriate responses to then outstanding motions.
3. Also on August 18, 2004 at the Scheduling Conference, this Court ordered that any further oral hearings on outstanding motions would be held upon the return of Attorney Lambert from military service in Iraq.
4. The Court has tendered no permission to BARD to file further motions in light of the proposed stay.
5. In light of BARD's assent of August 11, 2004, the only parties with outstanding replies to the motion for stay were Futuremed Interventional, Inc., and Crossbow Ventures, Inc.
6. On August 25, 2004 Futuremed Interventional, Inc., and Crossbow Ventures, Inc. filed their response to Plaintiff's Motion for Stay as expected.
7. On August 25, 2004 BARD filed a response to Plaintiff's Motion for Stay in direct contravention to their prior assent.
8. On August 27, 2004 Plaintiff received BARD's Motion for Judgment on the Pleadings and accompanying Memorandum in Support Thereof despite the pending Plaintiff's Motion for Stay.
9. In light of Plaintiff's pending Motion for Stay, Plaintiff requires additional time to prepare an Opposition to BARD's Motion for Judgment on the Pleadings.
10. In BARD's Partial Opposition to Plaintiff's Motion for Stay, BARD has assented to a extension of time for Epstein to file an opposition to BARD's Motion for Judgment on the Pleadings.

11. The interests of justice and due process will be served by allowing the Plaintiff an extension of time to file its Plaintiff's Opposition to BARD's Motion for Judgment on the Pleadings.

WHEREFORE, Plaintiff requests that this Court grant the requested Extension of Time, extending the time to file Plaintiff's Opposition to BARD's Motion for Judgment on the Pleadings until such time as Epstein's Motioned for Stay, if granted, is lifted.

Dated: Sept. 9, 2004

Respectfully submitted,

By: Patrick D. Archibald  
Patrick D. Archibald, Esq.  
BBO#: 657,757  
LAMBERT & ASSOCIATES  
Attorney for Plaintiff Scott M. Epstein

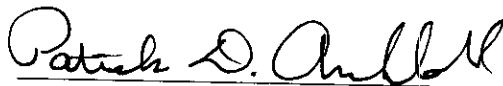
**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorneys of record on September 9, 2004 by First Class Mail, Postage Pre-Paid to:

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